

Notice of Allowability

Application No.

10/642,535

Examiner

David T. Fidei

Applicant(s)

BASHAM ET AL

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☒ The drawings filed on 18 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

1. The following is an examiner's statement of reasons for allowance:

The closest prior art of record is the patent to Gueret (Patent no. 5,692,644). The differences between the claimed subject and Gueret are as follows. A cap is forth set in claim 1 as comprising a plunger including a substantially centrally disposed cavity portion integral therewith and extending downwardly therefrom. The cavity portion is for containing an additive therein and being provided with a lower portion provided with an opening for dispensing an additive. In Gueret a pusher member 9 includes a piston member 13. However, the cavity in the piston 13 appears to be a hollowed out interior portion that is closed at one end in the embodiments of figures 1, 2, 4 and 5. In the remaining embodiments the piston 3 is a solid member. Hence Gueret lacks a cavity portion for containing an additive therein and being provided with a lower portion provided with an opening for dispensing an additive.

An equivalent receiving member 4 of Gueret has the reservoir 7 containing the additive located in the cavity of shaft 6 rather than the plunger member 9. The base member 4 of Gueret is described as being snapped to the lower end of the container in col. 3, line 18. However, the cap can be orientated in any position as shown in figure 5. Also, it appears from figure 7 of Gueret that the cap can be located in various positions on the container. In view of this no regard, i.e., patentable distinction, was given to the language of a cap for removably engaging "a top opening" of a container or direction relative language such as the plunger is "moved towards a down position".

While Gueret also lacks the threaded integral portion, the use of threads for a snap fit is considered to be an art recognized equivalent manner of attaching the receiving member.

Claim 1 recites a membrane extending across an opening of a container. The membrane or seal 8 of Gueret is heat welded to base 4, see col. 3, line 28 and does not extend across the opening of the container to which the base 4 snaps onto. None of the prior art of record discloses or teaches these aforementioned differences.

2. Independent claims 9 and 16 include at least these recitations discussed with regard to claim 1, plus additional features of the cap. Therefore, claims 9 and 16 are allowable for at least the same reasons as those for claim 1.

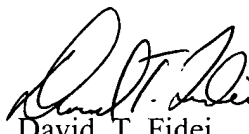
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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David T. Fidei
Primary Examiner
Art Unit 3728

dtf
September 23, 2004